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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MARIA VALENCIA, ) No. C 03-2848-MHP  
Plaintiff, )  
v. ) STIPULATION AND [PROPOSED]  
UNITED STATES OF AMERICA, ) ORDER APPROVING COMPROMISE  
Defendant. ) SETTLEMENT

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IT IS HEREBY STIPULATED by and between Plaintiff Maria Valencia and Defendant  
United States of America, by and through their respective attorneys as follows:

1. The parties do hereby agree to settle and compromise the above-entitled action  
under the terms and conditions set forth herein.
2. Defendant United States of America agrees to pay to Plaintiff Maria Valencia the  
net sum of Seven Thousand Five Hundred Dollars and no cents (\$7,500.00), which sum shall be  
in full settlement and satisfaction of any and all claims, demands, rights, and causes of action of  
whatsoever kind and nature, arising from, and by reason of any and all known and unknown,

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1 foreseen and unforeseen bodily and personal injuries, damage to property and the consequences  
2 thereof, resulting, and to result, from the same subject matter that gave rise to the above-  
3 captioned lawsuit, including any claims for wrongful death, for which Plaintiff or her heirs,  
4 executors, administrators, or assigns, and each of them, now have or may hereafter acquire  
5 against the United States of America, its agencies, agents, servants, and employees.

6 3. Plaintiff and her heirs, executors, administrators or assigns hereby agree to accept  
7 the sum listed in paragraph 2 in full settlement and satisfaction of any and all claims, demands,  
8 rights, and causes of action of whatsoever kind and nature, arising from, and by reason of any and  
9 all known and unknown, foreseen and unforeseen bodily and personal injuries, damage to  
10 property and the consequences thereof which she may have or hereafter acquire against the  
11 United States of America, its agencies, agents, servants and employees on account of the same  
12 subject matter that gave rise to the above-captioned lawsuit, including any future claim for  
13 wrongful death. Plaintiff and her heirs, executors, administrators or assigns further agree to  
14 reimburse, indemnify and hold harmless the United States of America, its agencies, agents,  
15 servants or employees from any and all such causes of action, claims, liens, rights, or subrogated  
16 or contribution interests incident to or resulting from further litigation or the prosecution of  
17 claims by Plaintiff or her heirs, executors, administrators or assigns against any third party or  
18 against the United States, including claims for wrongful death.

19 4. This stipulation for compromise settlement shall not constitute an admission of  
20 liability or fault on the part of the United States, its agencies, agents, servants, or employees, and  
21 is entered into by the parties for the purpose of compromising disputed claims and avoiding the  
22 expenses and risks of litigation.

23 5. This Agreement may be pled as a full and complete defense to any subsequent  
24 action or other proceeding involving any person or party which arises out of the claims released  
25 and discharged by the Agreement.

26 6. It is also agreed, by and among the parties, that the settlement amount of the net  
27 sum of Seven Thousand Five Hundred Dollars and no cents (\$7,500.00) to Maria Valencia  
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1 represents the entire amount of the compromise settlement and that the respective parties will  
2 each bear their own costs, fees, and expenses and that any attorneys' fees owed by Plaintiff will  
3 be paid out of the settlement amount and not in addition thereto.

4       7. It is also understood by and among the parties that, pursuant to Title 28, United  
5 States Code, Section 2678, attorneys' fees for services rendered in connection with this action  
6 shall not exceed 25 percent of the amount of the compromise settlement.

7       8. Payment of the settlement amount will be made by a check drawn on the United  
8 States Treasury for Seven Thousand Five Hundred Dollars and no cents (\$7,500.00) and made  
9 payable to Maria Valencia and Meis & Alexander.

10       9. In consideration of this Agreement and the payment of the foregoing amount  
11 thereunder, Plaintiff agrees that upon notification that the settlement check is ready for delivery,  
12 she will deliver to Defendant's counsel a fully executed Notice of Dismissal with prejudice of  
13 Maria Valencia v. United States of America, C 03-2848-MHP. Upon delivery of the Notice of  
14 Dismissal, Defendant's counsel will release the settlement check to Plaintiff's counsel or her  
15 agent.

16       10. Plaintiff has been informed that payment may take sixty days or more to process.  
17 but Defendant agrees to make good faith efforts to expeditiously process said payment.

18       11. The parties agree that should any dispute arise with respect to the implementation  
19 of the terms of this Agreement, Plaintiff shall not seek to rescind the Agreement and pursue her  
20 original causes of action. Plaintiff's sole remedy in such a dispute is an action to enforce the  
21 Agreement in district court. The parties agree that the district court will retain jurisdiction over  
22 this matter for the purposes of resolving any dispute alleging a breach of this Agreement.

23       12. Plaintiff hereby releases and forever discharges the United States and any and all  
24 of its past and present officials, employees, agencies, agents, attorneys, their successors and  
25 assigns, from any and all obligations, damages, liabilities, actions, causes of action, claims and  
26 demands of any kind and nature whatsoever, whether suspected or unsuspected, at law or in  
27 equity, known or unknown, arising out of the allegations set forth in Plaintiff's pleadings in this

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1 action.

2       13. The provisions of California Civil Code Section 1542 are set forth below:

3       " A general release does not extend to claims which the creditor does not know or  
4       suspect to exist in his favor at the time of executing the release, which if known  
      by him must have materially affected his settlement with the debtor."

5 Plaintiff having been apprised of the statutory language of California Civil Code Section 1542 by  
6 his attorneys, and fully understanding the same, nevertheless elects to waive the benefits of any  
7 and all rights she may have pursuant to the provision of that statute and any similar provision of  
8 federal law. Plaintiff understands that, if the facts concerning Plaintiff's injuries and the liability  
9 of the government for damages pertaining thereto are found hereinafter to be other than or  
10 different from the facts now believed by them to be true, the Agreement shall be and remain  
11 effective notwithstanding such material difference.

12       14. This instrument shall constitute the entire Agreement between the parties, and it is  
13 expressly understood and agreed that the Agreement has been freely and voluntarily entered into  
14 by the parties hereto with the advice of counsel, who have explained the legal effect of this  
15 Agreement. The parties further acknowledge that no warranties or representations have been  
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1 made on any subject other than as set forth in this Agreement. This Agreement may not be  
2 altered, modified or otherwise changed in any respect except by writing, duly executed by all of  
3 the parties or their authorized representatives.

4  
5 Dated: July   , 2005

*Maria Valencia*  
6 MARIA VALENCIA  
Plaintiff

7  
8 *Sept 26, 2005*  
9 Dated: July   , 2005

10 RICHARD PALENCHAR  
11 MEIS & ALEXANDER  
12 Attorney for Plaintiff

13 Dated: July 25, 2005

14 KEVIN V. RYAN  
15 United States Attorney

16 EDWARD A. OLSEN  
17 Assistant United States Attorney

18 **[PROPOSED] ORDER**

19 APPROVED AND SO ORDERED.

20 Dated: 11/7/05

21 *Marilyn H. Patel*  
22 MARILYN H. PATEL  
United States District Court Judge

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